

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Implementation of Section 309(j)) PP Docket No. 93-253
of the Communications Act -)
Competitive Bidding)
Narrowband PCS) DOCKET FILE COPY ORIGINAL

and DOCKET FILE COPY ORIGINAL

Amendment of the Commission's)
Rules to Establish New Narrowband) GEN Docket No. 90-314
Personal Communications Services) ET Docket No. 92-100

To: The Commission

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, files these comments in the above-captioned proceedings. Specifically, PRTC responds to certain proposals detailed by the Commission in its Further Notice of Proposed Rulemaking¹ released on August 17, 1994.

In the Further NPRM the Commission proposes to set aside specific narrowband personal communications services ("PCS") licenses for bidding only by entities with annual gross revenues of less than \$125 million and total assets of less than \$500 million. Further NPRM at ¶ 74. For major trading areas

¹ Implementation of Section 309(j) of the Communications Act - Competitive Bidding Narrowband PCS and Amendment of the Commission's Rules to Establish New Narrowband Personal Communication Services, Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 94-219 (rel. Aug. 17, 1994) ("Further NPRM").

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("MTA's"), the Commission would set aside narrowband frequency block 19 (50 kHz channel paired with a 50 kHz channel), frequency blocks 21 and 22 (50 kHz paired with 12.5 kHz), and frequency block 24 (50 kHz unpaired). Id. The Commission also proposes to set aside both narrowband frequency blocks designated for basic trading areas ("BTA's"). Id.

PRTC is mindful of the Commission's determination that additional provisions might be necessary to fulfill the congressional directive to give small businesses and businesses owned by minorities and women an opportunity to participate in the provision of PCS. The high amounts bid for licenses in the nationwide narrowband PCS auction² suggest that set-aside blocks could be effective in that regard. However, PRTC urges the Commission not to limit unduly opportunities for larger telecommunications providers in creating opportunities for entrepreneurs' block entities.

Specifically, PRTC urges the Commission not to set aside narrowband PCS frequency block 19 for entrepreneur only bidding. The spectrum in block 19 is adjacent to that in narrowband PCS block 18. Both are designated for service on a MTA basis and both are 50 kHz channels paired with other 50 kHz channels. Together, blocks 18 and 19 are crucial to permitting effective competition in the narrowband PCS market.

². See Announcing the High Bidders in the Auction of Ten Nationwide Narrowband PCS Licenses; Winning Bids Total \$617,006,674, Mimeo No. 44177 (rel. Aug. 2, 1994) ("Nationwide Narrowband Public Notice").

Two of the three winners of nationwide 50 kHz/50 kHz narrowband license auctions were the high bidders on adjacent narrowband spectrum blocks. Paging Network of Virginia was the high bidder for narrowband PCS blocks 1 and 2, and KDM Messaging Company was the high bidder for blocks 3 and 4.³ Once licensed, these concerns will be able to combine the spectrum in their 50 kHz/50 kHz blocks for nationwide service.⁴ That combined service will reach into every MTA in the country. To compete effectively with these concerns in the Puerto Rico/U.S. Virgin Islands MTA, it will be necessary for an MTA licensee to combine spectrum in blocks 18 and 19 to offer the same services.⁵

For this reason, the Commission should not now set aside narrowband PCS block 19 for bidding only by entrepreneurs' block concerns. If block 19 eligibility is limited to entities with annual gross revenues of less than \$125 million and total assets of less than \$500 million, it is unlikely that the same entity

³. Nationwide Narrowband Public Notice at 1.

⁴. Indeed, a report in today's Wall Street Journal highlights the nature and extent of the service to be offered with combined nationwide narrowband PCS licenses and the competition that is already developing for that service. See John J. Keller, McCaw Cellular Plans Expansion For \$1 Billion, Wall St. J., Sept. 16, 1994, at A3.

⁵. The Commission has recognized the benefits of combining narrowband PCS spectrum to accommodate wider bandwidth services. See Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services, First Report and Order, 8 FCC Rcd 7162, 7165-66 (1993); Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services, Memorandum Opinion and Order, 9 FCC Rcd 1309, 1312 (1994).

will be able to win licenses for both block 18 and block 19. The Commission has already recognized that businesses qualifying for the entrepreneurs' blocks require additional preferences to compete with larger communications service providers.⁶ Indeed, the Commission proposes to employ the entrepreneurs' block set-asides precisely for that reason. At the same time, a larger communications service provider will not likely qualify under the gross revenues and assets cap. Thus, a larger provider will not qualify to bid on block 19 and an entrepreneurs' block bidder will not be able to compete for block 18. The two blocks will be separated and the only 50 kHz/50 kHz narrowband PCS licensees with combined spectrum blocks will be the nationwide auction winners. Effective and robust competition in many MTA's — including the Puerto Rico/U.S. Virgin Islands market — will be limited.

At the same time, it appears that setting aside narrowband PCS block 19 is not necessary to create meaningful opportunities for entrepreneurial entities. The set asides proposed in the Further NPRM would restrict bidding eligibility on 66 percent (six of nine) of the narrowband PCS license blocks designated for MTA and BTA service.⁷ Those blocks represent 89 percent of the non-response channel MTA and BTA narrowband licenses nationwide. In contrast, the Commission elected to set aside only 33 percent

⁶. See Further NPRM at ¶ 73.

⁷. This figure excludes 12.5 kHz paging response channels restricted for incumbent paging licensees.

(two of six) of the broadband PCS license blocks for the same service areas, representing just 48 percent of all available broadband PCS licenses.⁸ Although PRTC is mindful of the Commission's goals underlying the use of entrepreneurs' block set-asides for narrowband PCS, it appears that there will remain a substantial number of enhanced opportunities for entrepreneurs' block bidders in narrowband PCS without reserving spectrum block 19.⁹

For these reasons, PRTC urges the Commission not to reserve narrowband PCS spectrum block 19 for bidding exclusively by entities with gross revenues less than \$125 million and total assets less than \$500 million. Leaving this block unrestricted would preserve meaningful bidding and service strategies for larger concerns while still creating even more enhanced opportunities for entrepreneurial entities than were established in connection with broadband PCS.

CONCLUSION

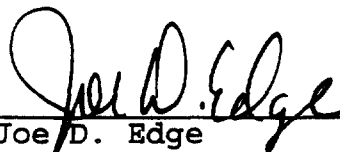
For these reasons, PRTC urges the Commission to permit all

⁸. Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Fifth Report and Order, FCC 94-178, at ¶ 121 (rel. July 15, 1994).

⁹. In this regard, PRTC also urges the Commission not to set aside narrowband PCS channel block 21. Permitting all entities to bid on this 50 kHz/12.5 kHz block — while setting aside four of the nine non-response channel MTA/BTA narrowband blocks — will preserve the current flexibility to offer a variety of services with different bandwidth requirements and still create meaningful opportunities for entrepreneurial entities.

entities to bid for narrowband PCS channel blocks 19 and 21.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joe D. Edge", is written over a horizontal line.

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